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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Revision of the Commission's Rules to Ensure)
Compatibility with Enhanced 911 Emergency)
Calling Systems)

CC Docket No. 94-102
RM-8143

To: Chief, Wireless Telecommunications Bureau

PETITION FOR WAIVER OF ALPINE PCS, INC.

Alpine PCS, Inc. ("Alpine" or "Petitioner")¹ by its attorneys and pursuant to the Commission's *November 13 Extension Order*,² petitions for waiver of section 20.18(c) of the Commission's rules, 47 C.F.R. §20.18(c), until equipment to permit the use of text telephone ("TTY") devices in conjunction with digital service is commercially and reasonably available.

Section 20.18(c) of the Commission's rules requires all covered carriers "to be capable of transmitting 9-1-1 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g. through the use of Text Telephone Devices" by October 1, 1997. 47 C.F.R. § 20.18(c). Alpine expects to begin providing digital PCS service from its various licensed systems in calendar year 1999. Without waiver, Alpine would be in technical non-compliance when it commences public service.³

¹Alpine files this waiver request on behalf of itself and all CMRS licensees it controls.

²*Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, RM-8143, *Order*, DA 98-2323 (Nov. 13, 1998) ("*November 13 Extension Order*").

³*Id.* See also *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, RM-8143, *Order*, DA 98-1982 (Sept. 30, 1998) ("*September 30 Extension Order*"); *Memorandum Opinion and Order*, 12 FCC Rcd 22665,

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As demonstrated below, Alpine's petition satisfies the Commission's criteria for grant of a waiver of section 20.18(c). Section 1.3 of the Commission's rules provides for the grant of waivers where "good cause" is shown. 47 C.F.R. §1.3. Here the absence of available digital equipment proves an unassailable basis for waiver grant.⁴

Alpine has neither the resources nor the expertise to design equipment capable of offering TTY over digital channels. Nevertheless, Alpine understands that one or more of the larger carriers in the nation are taking steps to provide TTY users with the capability to operate such devices in conjunction with digital wireless phones. The first phase of the plan—a "smart cable" that permits TTY users to avail themselves of many of the features provided by digital wireless phones while retaining the ability to access 9-1-1 over analog channels—is expected to be commercially available by October 1, 1999. As demonstrated below, this smart cable will address nearly all of the consumer concerns referenced in the FCC's *September 30 Extension Order*. Accordingly, the Commission should waive section 20.18(c) as necessary so that the company can be in compliance with the rule if it introduces the smart cable as soon as it is commercially available.

I. Background.

Significant technical issues impair the compatibility of TTY devices and digital wireless phones. First, current models of digital wireless phones are too small to connect acoustically with traditional TTY devices, which were designed to accommodate landline phones. Second, currently

³(...continued)
22695 at ¶ 59 (1997) ("*E911 Reconsideration Order*").

⁴It is axiomatic that "the Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

no commercially available "connectors" exist that allow a TTY user to connect a digital wireless phone directly to a TTY device. The wireless industry is developing standards for the production of such connectors, which are anticipated to be generally available in late 1999. Whereas carriers may be in compliance with the terms of section 20.18(c) if they offer these connectors to TTY users, the company is also aware that TTY user groups represented in the TTY Forum have objected to this proposed solution because initial tests suggest the passage of TTY baudot tones through digital wireless phone voice coders will distort the tones, producing character error rates of three to six percent.

II. Discussion.

A. Wavier is justified by lack of commercially available equipment.

The Commission has repeatedly recognized that unavailability of commercial equipment is a *bona fide* basis for waiver of rules. *See, e.g., Order*, PR Docket No. 89-552, 10 FCC Rcd 3356 (1995) (extending 220 MHz non-network construction schedules due to lack of equipment). *See also CALEA Extension Order*, 13 FCC Rcd 1799 (1998) (CALEA implementation date extended due, in part, to lack of equipment availability). Alpine asks only that these same principles be applied here.

B. Waiver is appropriate pursuant to the November 13 Extension Order.

Petitioner also relies herein upon the mechanism for waiver established in the *November 13, 1998 Extension Order*.

1. Petitioner intends to provide digital system TTY device capability.

Petitioner supports the efforts of the Wireless TTY Forum in establishing a work plan and in identifying solutions for TTY access over digital systems. Petitioner will comply with industry standards developed to implement this technology to the benefit of persons with speech and hearing disabilities. At present, however, compliant equipment is not available. Neither are there available

to Petitioner any links to other telecommunications service providers which have the software and/or capability to process digital wireless transmissions of 911 calls from TTY devices.

Alpine has reviewed in detail its equipment vendors' proposals to enable it to provide users of TTY devices with the capability to operate such devices in conjunction with digital wireless phones. The goal is for the manufacturers to provide Petitioner with equipment which is capable of transmitting the 911 call with sufficient error free text to elicit proper 911 response. One challenge is to coordinate the varying factors which result in a successful connection, including the type of vocoder used in the system, the type of text message equipment used, and the type of handset used. The vendors have kept Petitioner advised of progress with regard to these matters, and both Petitioner and its vendors will continue to follow closely the findings of the TTY Forum and any resulting promulgation of FCC mandates.

2. *Alpine will implement TTY/E911 capability as soon as technically feasible.*

Alpine anticipate it will be able to offer reliable TTY/E911 digital wireless service within the next year. The first step will be for the industry to adopt standards for TTY operation in digital mode. Thereafter, months will likely pass before suitable equipment becomes commercially available to Petitioner. Because of its small business stature, Petitioner is dependent upon both its vendors and TTY manufacturers working together cooperatively to develop workable solutions which it can practically implement. This circumstance complicates Alpine's ability to predict precisely when implementation of TTY/E911 call delivery will become a standard benefit of subscription to Petitioner's digital wireless services.

3. *Petitioner will address the consumer concerns referenced in the September 30 Extension Order.*

Petitioner will offer to consumers, to the extent possible in accordance with industry standards, TTY/E911 connections with the functional characteristics set forth in Appendix A of the *September 30 Extension Order*. Alpine will also participate in marketing, distribution and consumer education efforts as recommended by the TTY Forum or as adopted by the Commission. Alpine recognizes the value of offering TTY/E911 connections as a part of its wireless digital service, and will seek to have the TTY/E911 feature implemented to full advantage, both as a matter of public health and safety and as a matter of good business practice.

III. Conclusion.

For the reasons set forth above, Alpine requests waiver of the Commission's requirements for transmission of 911 calls made from TTY devices using digital wireless systems, and, in particular, a waiver of the January 1, 1999, date for commencement of compliance with rule section 20.18(c). The Petitioner's showing herein is consistent with the requirements for waiver set forth

in the *November 13 Extension Order*. Furthermore, the public interest benefit in this matter equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and extension be granted as proposed.

Respectfully submitted,

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December 4, 1998